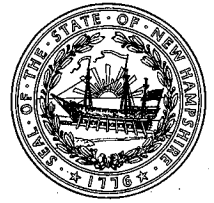




The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

July 23, 2013

H. Curtis Spalding, Regional Administrator  
U.S. Environmental Protection Agency, Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

**Re: State Implementation Plan Revision Submittal for Env-A 2700– Hot Mix Asphalt Plants**

Dear Administrator Spalding:

Pursuant to section 110 of the federal Clean Air Act as amended, the state of New Hampshire hereby submits for approval the subject proposed State Implementation Plan (SIP) revision and one exact electronic copy thereof on a disk (enclosed). As Governor Maggie Hassan's designee, I am requesting EPA's approval of this revision, which consists of the additions and amendments to administrative rule **Env-A 2700, Hot Mix Asphalt Plants**.

Env-A 2700 establishes standards for regulating visible emissions, particulate matter emissions, and fugitive emissions from hot mix asphalt plants.

On August 31, 2000 and January 28, 2005, Department of Environmental Services (DES) submitted earlier versions of Env-A 2700 as SIP revisions. With the exception of Env-A 2703.02(a) as submitted on January 28, 2005, DES is hereby withdrawing those submittals, as the current submittal contains the version of the rule that took effect on February 16, 2013, superseding the earlier versions.

This submittal contains all documentation necessary to satisfy the SIP completeness requirements pursuant to 40 CFR Part 51, Appendix V. The following administrative materials are included for your review:

- a. Evidence of the rule's adoption
- b. Evidence of legal authority
- c. A copy of the rule
- d. Evidence that all the State's legal requirements were followed in adopting the rule and submitting the SIP revision
- e. Evidence that the public notice was given in accordance with EPA procedures
- f. Certification that, if requested, the public hearing was held in accordance with the public notice
- g. A compilation of public comments and the State's responses thereto

DES Web site: [www.des.nh.gov](http://www.des.nh.gov)

**P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095**

Telephone: (603) 271-1370 • Fax: (603) 271-1381 • TDD Access: Relay NH 1-800-735-2964

One of the requirements of Appendix V is that the documentation include the date of adoption, as well as the effective date, of the rule. In accordance with RSA 541-A:14, an agency may adopt a rule after all procedures have been completed. DES adopts a rule on the day its Commissioner signs a letter advising that he has adopted the rule and files the adopted rule with the Director of the Office of Legislative Services (OLS). The rule takes effect the day after it is filed unless a different date is requested in the letter. The attachments hereto contain a letter from the DES Commissioner to the Director of the OLS, documenting the adoption of the rule, as well as written documentation from the OLS as to the filing and effective dates of the rule.

Technical support materials are not included for any of the changes, since it is not anticipated that the enclosed rules will affect previous demonstrations regarding attainment of the national ambient air quality standards.

Should you have any questions regarding this submittal, please contact Karla McManus, Planning and Rules Manager, at [karla.mcmanus@des.nh.gov](mailto:karla.mcmanus@des.nh.gov) or (603) 271-6854, or Barbara L. Hoffman, SIP Planning Manager, at [barbara.hoffman@des.nh.gov](mailto:barbara.hoffman@des.nh.gov) or (603) 271-7874. Thank you for your assistance.

Sincerely,



Craig A. Wright  
Acting Director  
Air Resources Division

Enclosures

cc: Dave Conroy, EPA  
Anne Arnold, EPA  
Alison Simcox, EPA

**EVIDENCE OF THE RULE'S ADOPTION**

40 CFR Part 51, Appendix V, 2.1(b)

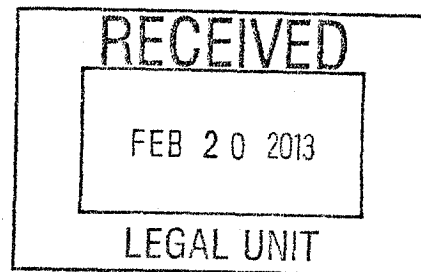
JILL K. SIEVEKING  
DIRECTOR

STATE OF NEW HAMPSHIRE



OFFICE OF LEGISLATIVE SERVICES

STATE HOUSE  
107 NORTH MAIN STREET, ROOM 109  
CONCORD, NEW HAMPSHIRE 03301-4951



February 19, 2013

Received from Commissioner, Department of Environmental Services

the following certified rule(s) filed with the Director of Legislative Services, in accordance with RSA 541-A, the Administrative Procedures Act.

Document # #10272

Relative to: Env-A 2700 - Hot Mix Asphalt Plants.

Number of Pages: 2

Adopted Date: 2-15-13

Filing Date: 2-15-13

Effective Date: 2-16-13

Expiration Date: 02/16/2023

Notes: N/A

In all communications with this office concerning the above rule(s), please cite the appropriate document number, as indicated above.

A handwritten signature in cursive script that reads "Jill K. Sieveking".

Jill K. Sieveking, Director  
Office of Legislative Services

**EVIDENCE OF LEGAL AUTHORITY**

40 CFR Part 51, Appendix V, 2.1(c)

Laws of New Hampshire, RSA 125-C:4  
Rulemaking Authority; Subpoena Power

# TITLE X

## PUBLIC HEALTH

### CHAPTER 125-C

#### AIR POLLUTION CONTROL

##### Section 125-C:4

###### **125-C:4 Rulemaking Authority; Subpoena Power. –**

I. The commissioner shall adopt rules under RSA 541-A, relative to:

(a) The prevention, control, abatement, and limitation of air pollution, including, but not limited to, open air source pollution, mobile source pollution, and stationary source pollution.

(b) Primary and secondary ambient air quality standards.

(c) Procedures to meet air pollution emergencies, as authorized by RSA 125-C:9.

(d) The establishment and operation of a statewide permit system, as authorized by RSA 125-C:6, XIV, RSA 125-C:11, I and RSA 125-C:11, I-a.

(e) Devices, in addition to those devices defined under RSA 125-C:2, subject to the permit requirements of RSA 125-C:11, as authorized by RSA 125-C:11, II.

(f) The exemption of certain devices and non-Title V sources from the permit requirements of RSA 125-C:11, I and the conformance of exempted devices to established standards, as authorized by RSA 125-C:11, I.

(g) The forms and information required on applications for temporary and permanent permits required under RSA 125-C:11, as authorized by RSA 125-C:12, I.

(h) Notification of and public hearing on permit applications, including exemptions from those requirements, as authorized by RSA 125-C:12, II.

(i) Fees for permit application and review, as authorized by RSA 125-C:12, IV-d.

(j) Procedures for permit application review, as authorized by RSA 125-C:11, IV, and criteria for permit denial, suspension or revocation, as authorized by RSA 125-C:13.

(k) Procedures for air testing and monitoring and recordkeeping, as authorized by RSA 125-C:6, XI.

(l) Procedures for receiving violation complaints and for rules enforcement, as authorized by RSA 125-C:15, I.

(m) Procedures for granting variances, as authorized by RSA 125-C:16.

(n) The manufacture, use, or sale of consumer products for purposes of implementing RSA 485:16-c.

(o) Applicability thresholds for emissions of particulate matter, mercury, and dioxin as provided in RSA 125-C:10-b, VII(f).

(p) The duration of time during which no additional best available control technology determination is required as provided in RSA 125-C:10-b, IV and VI.

(q) Procedures for establishing standards for and certification of any material, that is not an exempt fuel, to be combusted in a device at an affected source subject to RSA 125-C:10-b.

(r) Standards and testing requirements for biomass and eligible biomass fuel as authorized by RSA 125-C:6, XIV-a.

I-a. In adopting rules under paragraph I, the department may incorporate by reference standards issued by the California air resources board relative to certification and testing of vapor recovery equipment.

I-b. In adopting rules under subparagraph I(n), the department may incorporate by reference other state test methods and procedures that are referenced in the model rules of the Ozone Transport Commission (OTC) concerning consumer products, as defined in RSA 125-C:2, V-c.

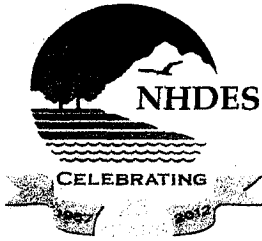
II. The commissioner is authorized to issue subpoenas requiring the attendance of such witnesses and the production of such evidence and to administer such oaths and to take such testimony as he may deem necessary.

**Source.** 1979, 359:2. 1986, 202:8. 1996, 228:19, 104; 278:2, 3. 2001, 293:5. 2003, 137:3. 2004, 175:2, eff. May 27, 2004. 2005, 173:3, eff. June 29, 2005. 2008, 113:3, eff. Aug. 2, 2008. 2010, 183:6, eff. June 21, 2010.

**COPY OF THE ACTUAL RULE**

40 CFR Part 51, Appendix V, 2.1(d)





The State of New Hampshire  
**Department of Environmental Services**

**Thomas S. Burack, Commissioner**

*Celebrating 25 Years of Protecting  
New Hampshire's Environment*



March 18, 2013

Jill K. Sieveking, Director  
Office of Legislative Services  
c/o Division of Administrative Rules  
25 Capitol Street  
State House Annex, Room 219  
Concord, New Hampshire 03301-6312

Re: Certification of Env-A 2700  
Reference Document #10272

Dear Director Sieveking:

Pursuant to RSA 541-A:15, I-a, I hereby certify that the enclosed rules are the same in substance as the rules originally filed with the Office of Legislative Services, Division of Administrative Rules.

I further certify that the enclosed rules, as edited for format by the Division of Administrative Rules, is the official version of these rules which this agency is required to publish in an 8 1/2 x 11 inch loose-leaf format as part of the New Hampshire Code of Administrative Rules, under Chapter 5 of the *New Hampshire Drafting and Procedure Manual for Administrative Rules* and RSA 541-A:15, I.

Sincerely,

Thomas S. Burack  
Commissioner

Enclosure

cc: Gretchen Hamel, DES Legal Unit  
DES Public Information Center

ec: K. Allen Brooks, Chief, AGO-Environmental Protection Bureau  
Karla McManus, DES ARD

[www.des.nh.gov](http://www.des.nh.gov)

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095  
(603) 271-3503 • TDD Access: Relay NH 1-800-735-2964

## STANDARD PUBLIC REQUEST FORM FOR REPLACEMENT PAGES

Chapter/Part: Env-A 2700

These rules are published in loose-leaf form in order that they may be amended as frequently as necessary. If you wish to receive updated supplement pages, you must fill out this form and return it as indicated below. The agency may charge the actual cost of providing the copy pursuant to RSA 541-A:11, VI and RSA 91-A:4, IV and may require payment before the copy is sent.

If you wish to receive updated pages in electronic format as a **substitute** for the loose-leaf, hard copy format, please check off the appropriate space below and complete. Please note that not all rules may be available in the electronic format requested.

Name: \_\_\_\_\_ Phone #: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City/Town: \_\_\_\_\_

State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

\*\*\*\* I want rules by: ☐ Fax (Fax #, incl. area code: \_\_\_\_\_)

☐ E-mail (E-mail address: \_\_\_\_\_)

☐ Mail

☐ Other (Specify: \_\_\_\_\_)

Send this page to: Department of Environmental Services  
Legal Unit  
29 Hazen Drive  
P.O. Box 95  
Concord, NH 03302-0095

For inquiries: 603-271-6330

Fax: 603-271-8805

E-mail: [Legal@des.nh.gov](mailto:Legal@des.nh.gov)

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in N.H.)

# NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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# NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

## CHAPTER Env-A 2700 HOT MIX ASPHALT PLANTS

Statutory Authority: RSA 125-C:4, I(a)

### PART Env-A 2701 PURPOSE AND APPLICABILITY

Env-A 2701.01 Purpose. The purpose of this chapter is to establish standards for regulating visible emissions, particulate matter emissions, and fugitive emissions from hot mix asphalt plants.

Source. #6428-B, eff 1-18-97 (formerly Env-A 1209); ss by #8217, eff 11-24-04; ss by #10272, eff 2-16-13

Env-A 2701.02 Applicability. This chapter shall apply to each hot mix asphalt plant operated in New Hampshire.

Source. #10272, eff 2-16-13

### PART Env-A 2702 EMISSION STANDARDS FOR HOT MIX ASPHALT PLANTS

Env-A 2702.01 Particulate Matter Emission Standards for Hot Mix Asphalt Plants. The owner or operator of a hot mix asphalt plant shall not cause or allow emissions of particulate matter from the hot mix asphalt plant to exceed 90 milligrams per dry standard cubic meter, or 0.04 grains per dry standard cubic foot.

Source. #6428-B, eff 1-18-97 (formerly Env-A 1209) ; ss by #8217, eff 11-24-04; ss by #10272, eff 2-16-13 (from Env-A 2703.01)

Env-A 2702.02 Visible Emission Standards for Hot Mix Asphalt Plants.

(a) The owner or operator of a hot mix asphalt plant shall not cause or allow visible fugitive emissions or visible stack emissions to exceed an average of 20 percent opacity for any continuous 6-minute period.

(b) Opacity shall be determined in accordance with Env-A 807.

Source. #10272, eff 2-16-13 (from Env-A 2703.02)

### PART Env-A 2703 FUGITIVE EMISSION CONTROL SYSTEM FOR HOT MIX ASPHALT PLANTS

Env-A 2703.01 Fugitive Emission Control System Required.

(a) The owner or operator of a hot mix asphalt plant shall not operate the plant unless it is equipped with a fugitive emission control system that is operated and maintained to prevent the emission of particulate matter from any point other than the stack outlet.

(b) The following sources and devices at a hot mix asphalt plant shall be exempt from the fugitive emission control system:

- (1) Overflow chutes;
- (2) Aggregate cold feed bins;
- (3) Feeders; and

## NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

### (4) Aggregate conveyors.

Source. #6428-B, eff 1-18-97 (formerly Env-A 1209); ss by #8217, eff 11-24-04; ss by #10272, eff 2-16-13 (from Env-A 2704.01)

## PART Env-A 2704 FUGITIVE DUST CONTROL WITHIN THE PLANT PROPERTY

### Env-A 2704.01 Fugitive Dust Control Within Plant Property.

(a) The owner or operator of a hot mix asphalt plant shall control the emission of dust caused by vehicular movement within the plant property boundaries using methods that include, but are not limited to, paving or wetting the roadway.

(b) The owner or operator of a hot mix asphalt plant shall control emissions of dust from ancillary devices and sources, such as overflow chutes, aggregate cold feed bins, feeders, aggregate conveyors, and stockpiles, using methods that include, but are not limited to, wet suppression, windbreaks, enclosures, or soil stabilization.

Source. #6428-B, eff 1-18-97 (formerly Env-A 1209); ss by #8217, eff 11-24-04; ss by #10272, eff 2-16-13 (formerly Env-A 2705.01)

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Appendix

| Provision of the Rule | Specific State or Federal Statutes or Regulations which the Rule is Intended to Implement |
|-----------------------|-------------------------------------------------------------------------------------------|
| Env-A 2701            | RSA 125-C:6, II                                                                           |
| Env-A 2702            | RSA 125-C:6, II                                                                           |
| Env-A 2703            | RSA 125-C:6, II                                                                           |
| Env-A 2704            | RSA 125-C:6, II                                                                           |

**EVIDENCE THAT NEW HAMPSHIRE FOLLOWED ALL  
PROCEDURAL REQUIREMENTS**

40 CFR Part 51, Appendix V, 2.1(e)

## REQUEST FOR FISCAL IMPACT STATEMENT



**STATE OF NEW HAMPSHIRE**

**DATE** November 1, 2012

**FROM** Thomas S. Burack  
Commissioner

**AT (OFFICE)** DES

**SUBJECT** Request for Fiscal Impact Statement

**TO** Legislative Budget Assistant

In accordance with NH RSA 541-A:5, enclosed please find a Request for Fiscal Impact Statement and a copy of the corresponding administrative rules for the following:

Env-A 2700: Hot Mix Asphalt Plants

Please fax the Fiscal Impact Statement to Gretchen Hamel at 271-8805.

If you have any questions, please contact Gretchen Hamel at 271-3137.

cc: Gretchen Hamel, Administrator, DES Legal Unit

ec: Karla McManus, ARD Planning and Rules Manager

**OFFICE OF LEGISLATIVE BUDGET ASSISTANT  
REQUEST FOR FISCAL IMPACT STATEMENT (FIS)**

| FIS Number                                                                                                                        | Rule Number                                                                                                                                                                                                                  | Env-A 2700 |
|-----------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| 1. Agency Name & Address:<br><br>Department of Environmental Services<br>29 Hazen Drive<br>P.O. Box. 95<br>Concord, NH 03302-0095 | 2. RSA Authority: RSA 125-C:4, I(a)<br>3. Federal Authority: N/A<br>4. Type of Action:<br>Adoption _____<br>Amendment _____<br>Repeal _____<br>Readoption _____<br>Readoption w/amendment <u>  X  </u><br>Interim rule _____ |            |
|                                                                                                                                   | 5. Have the rules expired? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/><br>Date Expired: _____                                                                                                        |            |

6. Short Title: Hot Mix Asphalt Plants

7. Contact Person:

|                                                                                                          |                                      |
|----------------------------------------------------------------------------------------------------------|--------------------------------------|
| Name: Gretchen Hamel                                                                                     | Title: Administrator, Legal Unit     |
| Address: Department of Environmental Services<br>29 Hazen Drive<br>P.O. Box 95<br>Concord, NH 03302-0095 | Phone #: 271-3137<br>Fax #: 271-8805 |

(1) *Summarize the rule.*

The existing rules, Env-A 2700, establish standards for regulating visible emissions, particulate matter emissions, and fugitive emissions from hot mix asphalt plants. The rules are proposed to be readopted because they are scheduled to expire on November 24, 2012. Revisions are proposed to increase the clarity of the rules.

(2) *Is the cost associated with this rule mandated by the rule or by state statute? If the cost is mandated by statute, then the rule itself may not have a cost or benefit associated with it. Please state either the statute or chapter law that is instigating this rule.*

There are no costs associated with the proposed rules, because even if the existing rules expire the sources that are subject to the rules would still be required to comply with the federal rule that incorporates them at 40 CFR §52.1520. (The numbering for this rule has changed; it was first approved into the State Implementation Plan (SIP) as Env-A 1207. EPA is reviewing the more current versions of these rules, and DES will submit these rules, when readopted, as revisions to the SIP.)

The rules are being adopted pursuant to RSA 125-C:4, I(a) to implement RSA 125-C:6, II and X.

(3) *Compare the cost of the proposed rule with the cost of the existing rule, if there is an existing rule.*

No changes to the substance of the rules are being proposed, so there is no difference between the costs of the proposed rules and the costs of the existing rules.

(4) *Describe the costs and benefits to the state general fund which would result from this rule.*

The proposed rules will not impose any costs on or provide any benefits to the state general fund.

## REQUEST FOR FISCAL IMPACT STATEMENT (FIS) – Page 2

- (5) *Explain and cite the federal mandate for the proposed rule, if there is such a mandate. How would the mandate affect state funds?*

There is no federal mandate for the proposed rules. However, the existing rule is part of the SIP, which has been approved by the U.S. Environmental Protection Agency pursuant to Section 110 of the Clean Air Act, 42 U.S.C. §7410 and is required by the Federal Clean Air Act to meet the National Ambient Air Quality Standards.

- (6) *Describe the cost and benefits to any state special fund which would result.*

There will be no costs or benefits to any state special fund as a result of the proposed amendments.

- (7) *Describe the costs and benefits to the political subdivisions of the state.*

The proposed rules will not impose any costs on political subdivisions of the state. Readopting these rules will provide financial benefits to political subdivisions in the form of reduced health care costs and fewer employee days lost to illness when compared with what would be incurred if particulate emissions were not controlled. Political subdivisions also may realize a financial benefit from businesses remaining in or moving into the tax base because of the cleaner air. Particulate matter or particle pollution, especially fine particles, contains microscopic solids or liquid droplets that are so small that they can get deep into the lungs and cause serious health problems. Numerous scientific studies have linked particle pollution exposure to a variety of problems, including: premature death in people with heart or lung disease; nonfatal heart attacks; irregular heartbeat; aggravated asthma; decreased lung function; and increased respiratory symptoms, such as irritation of the airways, coughing, or difficulty breathing.

- (8) *Describe the costs and benefits to the citizens of the state.*

The proposed rules will not impose any costs on citizens of the state. Readopting these rules will provide financial benefits to citizens in the form of reduced health care costs over those that would be incurred if particulate emissions were not controlled. Particulate matter or particle pollution, especially fine particles, contains microscopic solids or liquid droplets that are so small that they can get deep into the lungs and cause serious health problems. Numerous scientific studies have linked particle pollution exposure to a variety of problems, including: premature death in people with heart or lung disease; nonfatal heart attacks; irregular heartbeat; aggravated asthma; decreased lung function; and increased respiratory symptoms, such as irritation of the airways, coughing, or difficulty breathing.

- (9) *Describe the costs and benefits to any independently owned business, including a description of the specific reporting and recordkeeping requirements upon those employing fewer than 10 employees.*

The proposed rules will not impose any costs on any independently owned businesses. Readopting these rules will provide financial benefits to businesses in the form of fewer employee days lost to illnesses compared to what would be expected if particulate emissions were not controlled. Particulate matter or particle pollution, especially fine particles, contains microscopic solids or liquid droplets that are so small that they can get deep into the lungs and cause serious health problems. Numerous scientific studies have linked particle pollution exposure to a variety of problems, including: premature death in people with heart or lung disease; nonfatal heart attacks; irregular heartbeat; aggravated asthma; decreased lung function; and increased respiratory symptoms, such as irritation of the airways, coughing, or difficulty breathing.

The proposed rules will not change any existing reporting or recordkeeping requirements. There are no such requirements applying specifically to businesses employing fewer than 10 employees.

*Readopt with amendment Env-A 2700, eff. 11-24-04 (doc. #8217), to read as follows:*

## CHAPTER Env-A 2700 HOT MIX ASPHALT PLANTS

Statutory Authority: RSA 125-C:4, *I(a)*

### PART Env-A 2701 PURPOSE ***AND APPLICABILITY***

Env-A 2701.01 Purpose. The purpose of this chapter is to establish standards for regulating visible emissions, particulate matter emissions, and fugitive emissions from hot mix asphalt plants.

### ~~PART Env-A 2702 SCOPE~~

Env-A ~~2702.01~~ ***2701.02*** ~~Scope~~ ***Applicability***. This chapter shall apply to ~~any~~ ***each*** hot mix asphalt plant operated in ~~the state~~ ***New Hampshire***.

### PART Env-A ~~2703-2702~~ EMISSION STANDARDS FOR HOT MIX ASPHALT PLANTS

Env-A ~~2703-2702.01~~ Particulate Matter Emission Standards for Hot Mix Asphalt Plants. The owner or operator of a hot mix asphalt plant shall not cause or allow ~~the emissions of~~ particulate matter from the hot mix asphalt plant to exceed 90 milligrams per dry standard cubic meter, or 0.04 grains per dry standard cubic foot.

#### Env-A ~~2703-2702.02~~ Visible Emission Standards for Hot Mix Asphalt Plants.

(a) The owner or operator of a hot mix asphalt plant shall not cause or allow visible fugitive emissions or visible stack emissions to exceed an average of 20 percent opacity for any continuous 6-minute period.

(b) Opacity shall be determined in accordance with Env-A 807.

### PART Env-A ~~2704-2703~~ FUGITIVE EMISSION CONTROL SYSTEM FOR HOT MIX ASPHALT PLANTS

#### Env-A ~~2704-2703.01~~ Fugitive Emission Control System Required.

(a) The owner or operator of a hot mix asphalt plant shall not operate the plant unless it is equipped with a fugitive emission control system that is operated and maintained to prevent the emission of particulate matter from any point other than the stack outlet.

(b) The following sources and devices at a hot mix asphalt plant shall be exempt from the fugitive emission control system:

- (1) Overflow chutes;
- (2) Aggregate cold feed bins;
- (3) Feeders; and
- (4) Aggregate conveyors.

### PART Env-A ~~2705-2704~~ FUGITIVE DUST CONTROL WITHIN THE PLANT PROPERTY

#### Env-A ~~2705-2704.01~~ Fugitive Dust Control Within Plant Property.

(a) The owner or operator of a hot mix asphalt plant shall control the emission of dust caused by vehicular movement within the plant property boundaries. ~~Fugitive dust control~~ ***using methods shall that***

include, but ~~shall~~***are*** not ~~be~~ limited to, paving or wetting the roadway.

(b) The owner or operator of a hot mix asphalt plant shall control emissions of dust from ancillary devices and sources, such as overflow chutes, aggregate cold feed bins, feeders, aggregate conveyors, and stockpiles. ~~Fugitive dust control~~ ***using*** methods ~~shall~~***that*** include, but ~~shall~~***are*** not ~~be~~ limited to, wet suppression, windbreaks, enclosures, or soil stabilization.

#### APPENDIX

| Rule Section(s) | State Statute(s) Implemented |
|-----------------|------------------------------|
| Env-A 2701      | RSA 125-C:6, II              |
| Env-A 2702      | RSA 125-C:6, II              |
| Env-A 2703      | RSA 125-C:6, II              |
| Env-A 2704      | RSA 125-C:6, II              |

## FISCAL IMPACT STATEMENT

LBAO  
FIS 12:176  
11/08/12

Fiscal Impact Statement for Department of Environmental Services rules governing Hot Mix Asphalt Plants. [Env-A 2700]

**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

There is no difference in cost when comparing the proposed rules to the existing rules.

**2. Cite the Federal mandate. Identify the impact on state funds:**

No federal mandate, no impact on state funds. The existing rule is part of the state implementation plan which has been approved by the US Environmental Protection Agency pursuant to Section 110 of the Clean Air Act (42 U.S.C. § 7410) and is required by the Federal Clean Air Act to meet the National Ambient Air Quality Standards.

**3. Cost and benefits of the proposed rule(s):**

**A. To State general or State special funds:**

None.

**B. To State citizens and political subdivisions:**

None.

**C. To independently owned businesses:**

None.

RULEMAKING NOTICE FILING



**STATE OF NEW HAMPSHIRE**

**DATE** November 9, 2012

**FROM** Thomas S. Burack  
Commissioner

**AT (OFFICE)** DES

**SUBJECT** Rulemaking Notice

**TO** Office of Legislative Services  
Division of Administrative Rules

Please accept for filing the enclosed Rulemaking Notice for the following rules:

Env-A 2700: Hot Mix Asphalt Plants

Questions from OLS regarding the Rulemaking Notice should be directed to Gretchen Hamel at 271-3137.

Questions from the public regarding the proposed rules, public hearing, or public comment period should be directed to Karla McManus at 271-6854.

Enclosures

cc: Gretchen Hamel, DES Legal Unit Administrator

ec: K. Allen Brooks, Chief, AGO-Environmental Protection Bureau  
Karla McManus, DES ARD Planning and Rules Manager  
ARD Distribution list

# RULEMAKING NOTICE

| Notice Number                                                                                      | Rule Number            | Env-A 2700        |
|----------------------------------------------------------------------------------------------------|------------------------|-------------------|
| 1. Agency Name & Address:                                                                          | 2. RSA Authority:      | RSA 125-C:4, I(a) |
| NH Department of Environmental Services<br>29 Hazen Drive<br>P.O. Box 95<br>Concord, NH 03302-0095 | 3. Federal Authority:  | N/A               |
|                                                                                                    | 4. Type of Action:     |                   |
|                                                                                                    | Adoption               |                   |
|                                                                                                    | Amendment              |                   |
|                                                                                                    | Repeal                 |                   |
|                                                                                                    | Readoption             |                   |
|                                                                                                    | Readoption w/amendment | X                 |

5. Short Title: Hot Mix Asphalt Plants

6. (a) Summary of what the rule says and of any proposed amendments:

The existing rules, Env-A 2700, establish standards for regulating visible emissions, particulate matter emissions, and fugitive emissions from hot mix asphalt plants. The rules are proposed to be readopted because they are scheduled to expire on November 24, 2012; **pursuant to RSA 541-A:14-a, I, the existing rules will continue in effect for the duration of this readoption proceeding.** Revisions are proposed to increase the clarity of the rules.

6. (b) Brief description of the groups affected:

The rules affect owners and operators of certain hot mix asphalt plants that emit particulate matter, visible, and fugitive emissions.

6. (c) Specific section(s) of state statute or federal statute or regulation which the rule is intended to implement:

| Rule Section(s) | State Statute(s) Implemented |
|-----------------|------------------------------|
| Env-A 2701      | RSA 125-C:6, II              |
| Env-A 2702      | RSA 125-C:6, II              |
| Env-A 2703      | RSA 125-C:6, II              |
| Env-A 2704      | RSA 125-C:6, II              |

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

|          |                                                                                             |          |                            |
|----------|---------------------------------------------------------------------------------------------|----------|----------------------------|
| Name:    | Karla McManus                                                                               | Title:   | Planning and Rules Manager |
| Address: | NH Dept. of Environmental Services<br>29 Hazen Drive; P.O. Box 95<br>Concord, NH 03302-0095 | Phone #: | (603) 271-6854             |
|          |                                                                                             | Fax#:    | (603) 271-1381             |
|          |                                                                                             | E-mail:  | Karla.McManus@des.nh.gov   |

The rules also can be viewed in PDF at  
<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Tuesday, January 15, 2013 by close of business at 4:00 pm.**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, January 4, 2013 at 10:00 am.**

Place: **Room 112, DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 12:176, dated 11/08/12:

**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

There is no difference in cost when comparing the proposed rules to the existing rules.

**2. Cite the Federal mandate. Identify the impact on state funds:**

No federal mandate, no impact on state funds. The existing rule is part of the state implementation plan which has been approved by the US Environmental Protection Agency pursuant to Section 110 of the Clean Air Act (42 U.S.C. § 7410) and is required by the Federal Clean Air Act to meet the National Ambient Air Quality Standards.

**3. Cost and benefits of the proposed rule(s):**

**A. To State general or State special funds:**

None.

**B. To State citizens and political subdivisions:**

None.

**C. To independently owned businesses:**

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

None of the facilities affected by these rules is owned by a political subdivision. Accordingly, the proposed rules do not violate Part I, Article 28-a of the New Hampshire Constitution because they do not assign any new, modified, or expanded programs or responsibilities to political subdivisions of the state in such a way as to necessitate local expenditures.

## RULEMAKING REGISTER



# NEW HAMPSHIRE RULEMAKING REGISTER

## OFFICE OF LEGISLATIVE SERVICES

ROOM 219, STATE HOUSE ANNEX  
25 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6312  
Tel. (603) 271-3680

Website: [www.gencourt.state.nh.us/rules/index.html](http://www.gencourt.state.nh.us/rules/index.html)

Fax (603) 271-7871

TDD Access:  
Relay NH 1-800-735-2964

VOLUME XXXII, Number 46, November 15, 2012

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| b. Notices of Proposed Rules                                         | 1               |

#### NOTE: POSSIBLE RULE EXTENSION

If the proposed rules contain existing, regular rules being readopted or readopted with amendments, and are not adopted and effective until after the expiration date(s) of the existing rules(s), then the existing rules will nevertheless continue in effect pursuant to RSA 541-A:14-a until the proposed rules are adopted and effective.

## 2. COMMITTEE (JLCAR)

REGULAR MEETING: **Thursday, November 15, 2012 9:00 a.m.**  
Rooms 305/307, Legislative Office Building

CONTINUED MEETING: **Thursday, December 6, 2012 9:00 a.m.**  
Rooms 305/307, Legislative Office Building



### THANKSGIVING HOLIDAYS



#### Publication of November 21, 2012 Rulemaking Register

Thursday, November 22 and Friday, November 23 are state holidays. The Register that week will be published on Wednesday, November 21.

#### Deadline for November 29, 2012 Rulemaking Register

The deadline for filing rulemaking notices to be published in the November 29 Register will be the end of work day Wednesday, November 21.

## NEW HAMPSHIRE RULEMAKING REGISTER

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### Notices of Proposed Rules

| <u>Notice<br/>Number</u> | <u>Rule Number</u>                 | <u>Agency and Short Title of Rule</u>                                                                                                                                                                       | <u>Page No.</u> |
|--------------------------|------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| 2012-157                 | He-W 606.78(a)<br>intro and (a)(6) | Department of Health and Human Services<br>Former Division of Human Services<br>Acceptable Verification of the Equity Value of Life<br>Insurance for All Categories of Financial and Medical<br>Assistance. | 1               |
| 2012-158                 | Fis 607.02, 608.03,<br>& 1102.01   | Fish and Game Department<br>Miscellaneous Rules: Clarification to Scallop Dredge Ring<br>Size, Shellfish Report, and Special Wildlife Permit.                                                               | 3               |
| 2012-159                 | Nur 300                            | Board of Nursing<br>Licensing Requirements.                                                                                                                                                                 | 5               |
| 2012-160                 | Nur 400                            | Board of Nursing<br>Continued Status.                                                                                                                                                                       | 8               |
| 2012-161                 | Nur 700                            | Board of Nursing<br>Nursing Assistants.                                                                                                                                                                     | 11              |
| 2012-162                 | Nur 800                            | Board of Nursing<br>Certificate of Medication Administration for Licensed Nursing<br>Assistants and Medication Administration Education Program.                                                            | 13              |
| 2012-163                 | Env-A 2100                         | Department of Environmental Services<br>Air Related Programs<br>Particulate Matter and Visible Emissions Standards.                                                                                         | 15              |
| 2012-164                 | Env-A 2400                         | Department of Environmental Services<br>Air Related Programs<br>Ferrous and Non-Ferrous Foundries, Smelters, and Investment<br>Casting Operations.                                                          | 17              |
| 2012-165                 | Env-A 2700                         | Department of Environmental Services<br>Air Related Programs<br>Hot Mix Asphalt Plants.                                                                                                                     | 19              |
| 2012-166                 | Occ 211.03                         | Governing Board of Occupational Therapists<br>Pre-Hearing Disclosure of Witnesses and Exhibits.                                                                                                             | 21              |
| 2012-167                 | Occ 302.02 & 302.04                | Governing Board of Occupational Therapists<br>Required Documents.                                                                                                                                           | 23              |
| 2012-168                 | Occ 501.01 & 502.02                | Governing Board of Occupational Therapists<br>Definition of AOTA and Ethical Standards.                                                                                                                     | 25              |

| Notice Number                                                                                                                       | 2012-165               | Rule Number       | Env-A 2700 |
|-------------------------------------------------------------------------------------------------------------------------------------|------------------------|-------------------|------------|
| 1. Agency Name & Address:<br><br>NH Department of Environmental Services<br>29 Hazen Drive<br>P.O. Box 95<br>Concord, NH 03302-0095 | 2. RSA Authority:      | RSA 125-C:4, I(a) |            |
|                                                                                                                                     | 3. Federal Authority:  | N/A               |            |
|                                                                                                                                     | 4. Type of Action:     |                   |            |
|                                                                                                                                     | Adoption               | _____             |            |
|                                                                                                                                     | Amendment              | _____             |            |
|                                                                                                                                     | Repeal                 | _____             |            |
|                                                                                                                                     | Readoption             | _____             |            |
|                                                                                                                                     | Readoption w/amendment | X                 |            |

## 5. Short Title: Hot Mix Asphalt Plants

## 6. (a) Summary of what the rule says and of any proposed amendments:

The existing rules, Env-A 2700, establish standards for regulating visible emissions, particulate matter emissions, and fugitive emissions from hot mix asphalt plants. The rules are proposed to be readopted because they are scheduled to expire on November 24, 2012; pursuant to RSA 541-A:14-a, I, the existing rules will continue in effect for the duration of this readoption proceeding. Revisions are proposed to increase the clarity of the rules.

## 6. (b) Brief description of the groups affected:

The rules affect owners and operators of certain hot mix asphalt plants that emit particulate matter, visible, and fugitive emissions.

## 6. (c) Specific section(s) of state statute or federal statute or regulation which the rule is intended to implement:

| Rule Section(s) | State Statute(s) Implemented |
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| Env-A 2701      | RSA 125-C:6, II              |
| Env-A 2702      | RSA 125-C:6, II              |
| Env-A 2703      | RSA 125-C:6, II              |
| Env-A 2704      | RSA 125-C:6, II              |

## 7. Contact person for copies and questions including requests to accommodate persons with disabilities:

|          |                                                                                             |          |                            |
|----------|---------------------------------------------------------------------------------------------|----------|----------------------------|
| Name:    | Karla McManus                                                                               | Title:   | Planning and Rules Manager |
| Address: | NH Dept. of Environmental Services<br>29 Hazen Drive; P.O. Box 95<br>Concord, NH 03302-0095 | Phone #: | (603) 271-6854             |
|          |                                                                                             | Fax#:    | (603) 271-1381             |
|          |                                                                                             | E-mail:  | Karla.McManus@des.nh.gov   |

The rules also can be viewed in PDF at  
<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

## 8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: Tuesday, January 15, 2013 by close of business at 4:00 pm.

☒ Fax ☒ E-mail ☐ Other format (specify):

## 9. Public hearing scheduled for:

Date and Time: Friday, January 4, 2013 at 10:00 am.

Place: Room 112, DES Offices, 29 Hazen Drive, Concord NH

NN 2012-165 Continued

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 12:176, dated 11/08/12:

**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

There is no difference in cost when comparing the proposed rules to the existing rules.

**2. Cite the Federal mandate. Identify the impact on state funds:**

No federal mandate, no impact on state funds. The existing rule is part of the state implementation plan which has been approved by the US Environmental Protection Agency pursuant to Section 110 of the Clean Air Act (42 U.S.C. § 7410) and is required by the Federal Clean Air Act to meet the National Ambient Air Quality Standards.

**3. Cost and benefits of the proposed rule(s):**

**A. To State general or State special funds:**

None.

**B. To State citizens and political subdivisions:**

None.

**C. To independently owned businesses:**

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

None of the facilities affected by these rules is owned by a political subdivision. Accordingly, the proposed rules do not violate Part I, Article 28-a of the New Hampshire Constitution because they do not assign any new, modified, or expanded programs or responsibilities to political subdivisions of the state in such a way as to necessitate local expenditures.



ANNOTATIONS TO INITIAL PROPOSAL FROM THE OFFICE OF  
LEGISLATIVE SERVICES

NOV 08 2012

1/15

N

# RULEMAKING NOTICE

Notice Number 2012-165

Rule Number

Env-A 2700

1. Agency Name & Address:

NH Department of Environmental Services  
29 Hazen Drive  
P.O. Box 95  
Concord, NH 03302-0095

*Consent*

2. RSA Authority:

RSA 125-C:4, I(a)

3. Federal Authority:

N/A

4. Type of Action:

Adoption

Amendment

Repeal

Readoption

Readoption w/amendment

X

5. Short Title: Hot Mix Asphalt Plants

6. (a) Summary of what the rule says and of any proposed amendments:

The existing rules, Env-A 2700, establish standards for regulating visible emissions, particulate matter emissions, and fugitive emissions from hot mix asphalt plants. The rules are proposed to be readopted because they are scheduled to expire on November 24, 2012; pursuant to RSA 541-A:14-a, I, the existing rules will continue in effect for the duration of this readoption proceeding. Revisions are proposed to increase the clarity of the rules.

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| Env-A 2702      | RSA 125-C:6, II              |
| Env-A 2703      | RSA 125-C:6, II              |
| Env-A 2704      | RSA 125-C:6, II              |

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Karla McManus

Title: Planning and Rules Manager

Address: NH Dept. of Environmental Services  
29 Hazen Drive; P.O. Box 95  
Concord, NH 03302-0095

Phone #: (603) 271-6854

Fax#: (603) 271-1381

E-mail: Karla.McManus@des.nh.gov

The rules also can be viewed in PDF at  
<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: Tuesday, January 15, 2013 by close of business at 4:00 pm.

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: Friday, January 4, 2013 at 10:00 am.

Place: Room 112, DES Offices, 29 Hazen Drive, Concord NH

FINAL PROPOSAL FILING

**STATE OF NEW HAMPSHIRE**

**DATE** January 25, 2013

**FROM** Thomas S. Burack  
Commissioner **AT (OFFICE)** DES

**SUBJECT** Final Proposal #2012-165

**TO** Office of Legislative Services  
Division of Administrative Rules

In accordance with RSA 541-A:12, enclosed please find the Final Proposal Cover Sheet with attachments, including the corresponding rules, for the following:

Env-A 2700: Hot Mix Asphalt Plants

If you have any questions, please contact Gretchen Hamel at 271-3137.

Enclosures

cc: Gretchen Hamel, Administrator, DES Legal Unit

ec: Karla McManus, ARD Planning and Rules Manager

## COVER SHEET FOR FINAL PROPOSAL

Notice Number 2012-165 Rule Number Env-A 2700

|                                                                                                                                     |                                                                                                                                                                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Agency Name & Address:<br><br>NH Department of Environmental Services<br>29 Hazen Drive<br>P.O. Box 95<br>Concord, NH 03302-0095 | 2. RSA Authority: <u>RSA 125-C:4, I(a)</u><br>3. Federal Authority: <u>n/a</u><br>4. Type of Action:<br><input type="checkbox"/> Adoption<br><input type="checkbox"/> Amendment<br><input type="checkbox"/> Repeal<br><input type="checkbox"/> Readoption<br><input checked="" type="checkbox"/> Readoption w/amendment |
|-------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

5. Short Title: Hot Mix Asphalt Plants

6. Contact person for copies and questions:

|          |                                                                                             |          |                                |
|----------|---------------------------------------------------------------------------------------------|----------|--------------------------------|
| Name:    | Karla McManus                                                                               | Title:   | ARD Planning and Rules Manager |
| Address: | NH Dept. of Environmental Services<br>29 Hazen Drive; P.O. Box 95<br>Concord, NH 03302-0095 | Phone #: | (603) 271-6854                 |

7. Yes ☐ No ☒ Agency requests Committee legal counsel review and delayed Committee review pursuant to RSA 541-A:12, I-a

8. The rulemaking notice appeared in the Rulemaking Register on **November 15, 2012**.

9. Yes ☐ N/A ☒ Agency notified policy committees, or House Speaker and Senate President, pursuant to RSA 541-A:10, I, because this is the first time this rule or its amendments have been proposed to implement newly-enacted state authority.

**SEE THE INSTRUCTIONS--PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET  
AND 2 COPIES OF THE FOLLOWING:  
(and numbered correspondingly)**

10. The "Final Proposal-Fixed Text", including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

11. Yes ☐ N/A ☒ Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

12. Yes ☐ N/A ☒ The "Final Proposal-Annotated Text" indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(e).

13. Yes ☐ N/A ☒ The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

*Readopt with amendment Env-A 2700, eff. 11-24-04 (doc. #8217), to read as follows:*

## CHAPTER Env-A 2700 HOT MIX ASPHALT PLANTS

Statutory Authority: RSA 125-C:4, I(a)

### PART Env-A 2701 PURPOSE AND APPLICABILITY

Env-A 2701.01 Purpose. The purpose of this chapter is to establish standards for regulating visible emissions, particulate matter emissions, and fugitive emissions from hot mix asphalt plants.

Env-A 2701.02 Applicability. This chapter shall apply to each hot mix asphalt plant operated in New Hampshire.

### PART Env-A 2702 EMISSION STANDARDS FOR HOT MIX ASPHALT PLANTS

Env-A 2702.01 Particulate Matter Emission Standards for Hot Mix Asphalt Plants. The owner or operator of a hot mix asphalt plant shall not cause or allow emissions of particulate matter from the hot mix asphalt plant to exceed 90 milligrams per dry standard cubic meter, or 0.04 grains per dry standard cubic foot.

Env-A 2702.02 Visible Emission Standards for Hot Mix Asphalt Plants.

(a) The owner or operator of a hot mix asphalt plant shall not cause or allow visible fugitive emissions or visible stack emissions to exceed an average of 20 percent opacity for any continuous 6-minute period.

(b) Opacity shall be determined in accordance with Env-A 807.

### PART Env-A 2703 FUGITIVE EMISSION CONTROL SYSTEM FOR HOT MIX ASPHALT PLANTS

Env-A 2703.01 Fugitive Emission Control System Required.

(a) The owner or operator of a hot mix asphalt plant shall not operate the plant unless it is equipped with a fugitive emission control system that is operated and maintained to prevent the emission of particulate matter from any point other than the stack outlet.

(b) The following sources and devices at a hot mix asphalt plant shall be exempt from the fugitive emission control system:

- (1) Overflow chutes;
- (2) Aggregate cold feed bins;
- (3) Feeders; and
- (4) Aggregate conveyors.

### PART Env-A 2704 FUGITIVE DUST CONTROL WITHIN THE PLANT PROPERTY

Env-A 2704.01 Fugitive Dust Control Within Plant Property.

(a) The owner or operator of a hot mix asphalt plant shall control the emission of dust caused by vehicular movement within the plant property boundaries using methods that include, but are not limited to, paving or wetting the roadway.

(b) The owner or operator of a hot mix asphalt plant shall control emissions of dust from ancillary devices and sources, such as overflow chutes, aggregate cold feed bins, feeders, aggregate conveyors, and stockpiles, using methods that include, but are not limited to, wet suppression, windbreaks, enclosures, or soil stabilization.

**APPENDIX**

| <b>Rule Section(s)</b> | <b>State Statute(s) Implemented</b> |
|------------------------|-------------------------------------|
| Env-A 2701             | RSA 125-C:6, II                     |
| Env-A 2702             | RSA 125-C:6, II                     |
| Env-A 2703             | RSA 125-C:6, II                     |
| Env-A 2704             | RSA 125-C:6, II                     |

ANNOTATIONS TO THE FINAL PROPOSAL FROM THE OFFICE OF  
LEGISLATIVE SERVICES



JAN 25 2013

5 + N 1/30

Final Proposal No. 2012-165

Date Filed 1-25-13

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2012-165 Rule Number Env-A 2700

|                                                                                                                                                           |                                                                                                                                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Agency Name & Address:<br><br>NH Department of Environmental Services<br>29 Hazen Drive<br>P.O. Box 95<br>Concord, NH 03302-0095<br><br><u>CONSENT</u> | 2. RSA Authority: RSA 125-C:4, I(a)<br>3. Federal Authority: n/a<br>4. Type of Action:<br><input type="checkbox"/> Adoption<br><input type="checkbox"/> Amendment<br><input type="checkbox"/> Repeal<br><input type="checkbox"/> Readoption<br><input checked="" type="checkbox"/> Readoption w/amendment |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

5. Short Title: Hot Mix Asphalt Plants

6. Contact person for copies and questions:  
Name: Karla McManus Title: ARD Planning and Rules Manager  
Address: NH Dept. of Environmental Services Phone #: (603) 271-6854  
29 Hazen Drive; P.O. Box 95  
Concord, NH 03302-0095

7. Yes ☐ No ☒ Agency requests Committee legal counsel review and delayed Committee review pursuant to RSA 541-A:12, I-a

8. The rulemaking notice appeared in the Rulemaking Register on November 15, 2012.

9. Yes ☐ N/A ☒ Agency notified policy committees, or House Speaker and Senate President, pursuant to RSA 541-A:10, I, because this is the first time this rule or its amendments have been proposed to implement newly-enacted state authority.

SEE THE INSTRUCTIONS--PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET  
AND 2 COPIES OF THE FOLLOWING:  
(and numbered correspondingly)

10. The "Final Proposal-Fixed Text", including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

11. Yes ☐ N/A ☒ Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

12. Yes ☐ N/A ☒ The "Final Proposal-Annotated Text" indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(e).

13. Yes ☐ N/A ☒ The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

**RULEMAKING NOTICE - Page 2**

**10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 12:176, dated 11/08/12:**

**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

There is no difference in cost when comparing the proposed rules to the existing rules.

**2. Cite the Federal mandate. Identify the impact on state funds:**

No federal mandate, no impact on state funds. The existing rule is part of the state implementation plan which has been approved by the US Environmental Protection Agency pursuant to Section 110 of the Clean Air Act (42 U.S.C. § 7410) and is required by the Federal Clean Air Act to meet the National Ambient Air Quality Standards.

**3. Cost and benefits of the proposed rule(s):**

**A. To State general or State special funds:**

None.

**B. To State citizens and political subdivisions:**

None.

**C. To independently owned businesses:**

None.

**11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:**

None of the facilities affected by these rules is owned by a political subdivision. Accordingly, the proposed rules do not violate Part I, Article 28-a of the New Hampshire Constitution because they do not assign any new, modified, or expanded programs or responsibilities to political subdivisions of the state in such a way as to necessitate local expenditures.

*Readopt with amendment Env-A 2700, eff. 11-24-04 (doc. #8217), to read as follows:*

## CHAPTER Env-A 2700 HOT MIX ASPHALT PLANTS

Statutory Authority: RSA 125-C:4, I(a)

### PART Env-A 2701 PURPOSE AND APPLICABILITY

Env-A 2701.01 Purpose. The purpose of this chapter is to establish standards for regulating visible emissions, particulate matter emissions, and fugitive emissions from hot mix asphalt plants.

Env-A 2701.02 Applicability. This chapter shall apply to each hot mix asphalt plant operated in New Hampshire.

### PART Env-A 2702 EMISSION STANDARDS FOR HOT MIX ASPHALT PLANTS

Env-A 2702.01 Particulate Matter Emission Standards for Hot Mix Asphalt Plants. The owner or operator of a hot mix asphalt plant shall not cause or allow emissions of particulate matter from the hot mix asphalt plant to exceed 90 milligrams per dry standard cubic meter, or 0.04 grains per dry standard cubic foot.

Env-A 2702.02 Visible Emission Standards for Hot Mix Asphalt Plants.

(a) The owner or operator of a hot mix asphalt plant shall not cause or allow visible fugitive emissions or visible stack emissions to exceed an average of 20 percent opacity for any continuous 6-minute period.

(b) Opacity shall be determined in accordance with Env-A 807.

### PART Env-A 2703 FUGITIVE EMISSION CONTROL SYSTEM FOR HOT MIX ASPHALT PLANTS

Env-A 2703.01 Fugitive Emission Control System Required.

(a) The owner or operator of a hot mix asphalt plant shall not operate the plant unless it is equipped with a fugitive emission control system that is operated and maintained to prevent the emission of particulate matter from any point other than the stack outlet.

(b) The following sources and devices at a hot mix asphalt plant shall be exempt from the fugitive emission control system:

- (1) Overflow chutes;
- (2) Aggregate cold feed bins;
- (3) Feeders; and
- (4) Aggregate conveyors.

### PART Env-A 2704 FUGITIVE DUST CONTROL WITHIN THE PLANT PROPERTY

Env-A 2704.01 Fugitive Dust Control Within Plant Property.

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**APPENDIX**

| <b>Rule Section(s)</b> | <b>State Statute(s) Implemented</b> |
|------------------------|-------------------------------------|
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| Env-A 2702             | RSA 125-C:6, II                     |
| Env-A 2703             | RSA 125-C:6, II                     |
| Env-A 2704             | RSA 125-C:6, II                     |

APPROVAL OF THE RULE BY THE JOINT LEGISLATIVE COMMITTEE ON  
ADMINISTRATIVE RULES

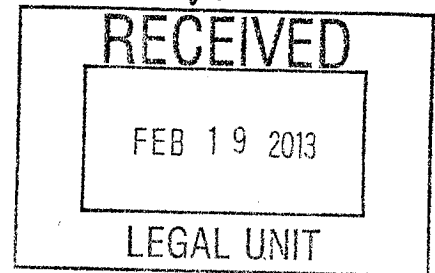
JILL K. SIEVEKING  
DIRECTOR

STATE OF NEW HAMPSHIRE



OFFICE OF LEGISLATIVE SERVICES

STATE HOUSE  
107 NORTH MAIN STREET, ROOM 109  
CONCORD, NEW HAMPSHIRE 03301-4951



February 15, 2013

NOTICE NO. 2012-165

RULE # Env-A 2700

RELATIVE TO: Hot Mix Asphalt Plants

The Joint Legislative Committee on Administrative Rules has reviewed the Final Proposal on the above cited rule at its meeting on FEBRUARY 15, 2013.

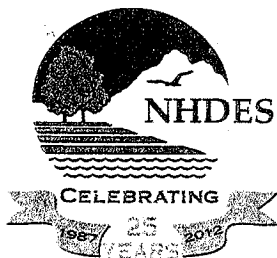
The Committee voted to approve the proposal. You may proceed to adopt the rules in the proposal and file them with the Office of Legislative Services, Administrative Rules. If the effective life of any existing, regular rules in your proposal were extended during the rulemaking proceeding pursuant to RSA 541-A:14-a, then all the rules in the proposal must be adopted within **30 days** of Committee approval. The rules also must be filed with an effective date not more than **60 days** from the date of filing. See Section 1.11 of Chapter 3 in the N.H. Drafting and Procedure Manual for Administrative Rules (Manual).

When filing the final rules, you are also required to file a cover letter indicating the date of final adoption and certifying the final rules are a true copy. See Section 2.21 of Chapter 3 in the Manual. The rules will become effective either at (1) 12:01 a.m. on the day after the filing, (2) 12:01 a.m. on the date specified in the cover letter to me when the rule is filed, or (3) such other date and time as specified in the cover letter, provided that the filing occurs before such effective date and time. Please send two (2) copies of the adopted rules.

Sincerely yours,

Jill K. Sieveking, Director  
Office of Legislative Services

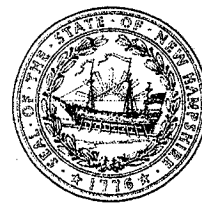
## ADOPTED RULE



The State of New Hampshire  
**Department of Environmental Services**

**Thomas S. Burack, Commissioner**

*Celebrating 25 Years of Protecting  
New Hampshire's Environment*



February 15, 2013

Jill K. Sieveking, Acting Director  
c/o OLS, Division of Administrative Rules  
State House Annex, Room 219  
Concord, NH 03301

Re: Adoption of Final Rules, FP #2012-165

Dear Director Sieveking:

Please be advised that I, as Commissioner of the Department of Environmental Services, have adopted the following rules:

Env-A 2700: Hot Mix Asphalt Plant Rules

The Joint Legislative Committee on Administrative Rules approved these rules at its meeting on February 15, 2013.

A copy of the adopted rules is being filed electronically, concurrent with the e-filing of this adoption letter. The original, signed adoption letter is being sent separately by messenger mail for your records.

I, Thomas S. Burack, Commissioner of the Department of Environmental Services, hereby certify that the enclosed are true copies of the rules I have adopted.

Sincerely,

Thomas S. Burack  
Commissioner

Enclosure

cc: Gretchen Hamel, DES Legal Unit  
Public Information and Permitting Office

ec: K. Allen Brooks, Chief, AGO-Environmental Protection Bureau  
Karla McManus, DES ARD Planning and Rules Manager

[www.des.nh.gov](http://www.des.nh.gov)

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095  
(603) 271-3503 • TDD Access: Relay NH 1-800-735-2964



**As of February 16, 2013, Env-A 2700 reads as follows:**

**CHAPTER Env-A 2700 HOT MIX ASPHALT PLANTS**

Statutory Authority: RSA 125-C:4, I(a)

**PART Env-A 2701 PURPOSE AND APPLICABILITY**

Env-A 2701.01 Purpose. The purpose of this chapter is to establish standards for regulating visible emissions, particulate matter emissions, and fugitive emissions from hot mix asphalt plants.

Env-A 2701.02 Applicability. This chapter shall apply to each hot mix asphalt plant operated in New Hampshire.

**PART Env-A 2702 EMISSION STANDARDS FOR HOT MIX ASPHALT PLANTS**

Env-A 2702.01 Particulate Matter Emission Standards for Hot Mix Asphalt Plants. The owner or operator of a hot mix asphalt plant shall not cause or allow emissions of particulate matter from the hot mix asphalt plant to exceed 90 milligrams per dry standard cubic meter, or 0.04 grains per dry standard cubic foot.

Env-A 2702.02 Visible Emission Standards for Hot Mix Asphalt Plants.

(a) The owner or operator of a hot mix asphalt plant shall not cause or allow visible fugitive emissions or visible stack emissions to exceed an average of 20 percent opacity for any continuous 6-minute period.

(b) Opacity shall be determined in accordance with Env-A 807.

**PART Env-A 2703 FUGITIVE EMISSION CONTROL SYSTEM FOR HOT MIX ASPHALT PLANTS**

Env-A 2703.01 Fugitive Emission Control System Required.

(a) The owner or operator of a hot mix asphalt plant shall not operate the plant unless it is equipped with a fugitive emission control system that is operated and maintained to prevent the emission of particulate matter from any point other than the stack outlet.

(b) The following sources and devices at a hot mix asphalt plant shall be exempt from the fugitive emission control system:

- (1) Overflow chutes;
- (2) Aggregate cold feed bins;
- (3) Feeders; and
- (4) Aggregate conveyors.

**PART Env-A 2704 FUGITIVE DUST CONTROL WITHIN THE PLANT PROPERTY**

Env-A 2704.01 Fugitive Dust Control Within Plant Property.

(a) The owner or operator of a hot mix asphalt plant shall control the emission of dust caused by vehicular movement within the plant property boundaries using methods that include, but are not limited to, paving or wetting the roadway.

(b) The owner or operator of a hot mix asphalt plant shall control emissions of dust from ancillary devices and sources, such as overflow chutes, aggregate cold feed bins, feeders, aggregate conveyors, and stockpiles, using methods that include, but are not limited to, wet suppression, windbreaks, enclosures, or soil stabilization.

#### APPENDIX

| Rule Section(s) | State Statute(s) Implemented |
|-----------------|------------------------------|
| Env-A 2701      | RSA 125-C:6, II              |
| Env-A 2702      | RSA 125-C:6, II              |
| Env-A 2703      | RSA 125-C:6, II              |
| Env-A 2704      | RSA 125-C:6, II              |

**EVIDENCE OF PUBLIC NOTICE**

40 CFR Part 51, Appendix V, 2.1(f)

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF ENVIRONMENTAL SERVICES  
AIR RESOURCES DIVISION  
CONCORD, NH

NOTICE OF PUBLIC HEARING

In accordance with RSA 541-A:6 and N.H. Admin. Rule Env-A 204.01(b) and 40 CFR § 51.102, notice is hereby given that the New Hampshire Department of Environmental Services, Air Resources Division (the Department), will hold a public hearing on proposed amendments to the NH Code of Administrative Rules and the State Implementation Plan on **Friday, January 4, 2013**. The public hearing will be held in Room 112, first floor of the offices of the Department, 29 Hazen Drive, Concord, NH.

At **10:00 a.m. on Friday, January 4, 2013**, the Department will receive testimony from the public concerning the proposed readoption with amendments of three rules, **Env-A 2100-Particulate Matter and Visible Emissions Standards; Env-A 2400 – Ferrous and Non-Ferrous Foundries, Smelters, and Investment Casting Operations; Env-A 2700 – Hot Mix Asphalt Plants.**

The existing rules, Env-A 2100, establish standards for particulate matter and visible emissions for those stationary sources or devices that are not specifically regulated pursuant to any other chapter, part, or section of this subtitle. The existing rules, Env-A 2400, establish emission standards for particulate matter and visible emissions from ferrous and non-ferrous foundries, smelters, and investment casting operations. There are seven foundries in New Hampshire, the emissions from which could be harmful or irritating to the public if not controlled by this chapter. The existing rules, Env-A 2700, establish standards for regulating visible emissions, particulate matter emissions, and fugitive emissions from hot mix asphalt plants. All three of these rules are proposed to be readopted because they are scheduled to expire on November 24, 2012; **pursuant to RSA 541-A:14-a, I, the existing rules will continue in effect for the duration of this readoption proceeding.** Revisions are proposed to increase the clarity of the rules.

Testimony may be presented orally and/or in writing at the public hearing. The Department will receive written comments on the proposed rules until **4:00 p.m. on Tuesday, January 15, 2013**. Please submit written comments to Karla McManus, Planning and Rules Manager, Air Resources Division, NH Department of Environmental Services, P.O. Box 95, Concord, NH 03302-0095, Fax (603) 271-7053 or e-mail at [Karla.McManus@des.nh.gov](mailto:Karla.McManus@des.nh.gov).

Copies of all documentation pertaining to rulemakings for all air rules are available for inspection at the offices of the Department at the address stated above. The proposed rule is also posted at <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>. Questions regarding the proposed rulemakings should be directed to Karla McManus at (603) 271-6854.

Thomas S. Burack

Commissioner  
NH Department of Environmental Services

Dated: November 16, 2012

ENV-A 2100, 2400, 2700

**UNION LEADER CORPORATION**

P O BOX 9513  
MANCHESTER, NH 03108

**RECEIVED  
NEW HAMPSHIRE**

**DEC 03 2012**

**AIR RESOURCES DIVISION**

0000059625  
STATE OF NH AIR RESOURCES COMM  
VALERIE DAVID  
PO BOX 95  
CONCORD NH 03302-0095

I hereby certify that the legal notice: (0000325410) PUB. HEARING- 1/4/13 10AM  
was published in the New Hampshire Union Leader  
printed at Manchester, NH by the Union Leader Corp.  
On:  
11/21/2012.

State of New Hampshire  
Hillsborough County

Subscribed and sworn to before me this

21 day of November 2012

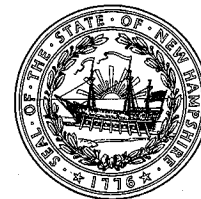
Shylis E Manning  
Notary Public

**CERTIFICATION OF PUBLIC HEARING**

40 CFR Part 51, Appendix V, 2.1(g)



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

July 18, 2013

I Hereby Certify:

That, in accordance with the provisions of NH RSA 541-A:11 and section 110(a) of the Clean Air Act, as amended, public notice was given specifying that a public hearing regarding the proposed readoption with amendments of Env-A 2700 of the NH Code of Administrative Rules was to be held on January 4, 2013 at 910:00 a.m. in room 112 of the offices of the New Hampshire Department of Environmental Services, Air Resources Division, 29 Hazen Drive, Concord, NH. The notice was published at least 30 days prior to the date of such hearing in a newspaper of general circulation. The notice stated that copies of documentation regarding the proposed readoption with amendments of Env-A 2700 of the NH Code of Administrative Rules could be examined at the Department's offices or at:

<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>.

That the public hearing was held on January 4, 2013 at 10:00 a.m. in room 112 of the offices of the New Hampshire Department of Environmental Services, Air Resources Division, 29 Hazen Drive, Concord, NH, in accordance with the public notice. Since no members of the public attended the hearing, the presentation of the proposed rule and recordation of the presentation were determined to be unnecessary. Therefore, the hearing was closed at 10:12 a.m., and a memo stating the circumstances was added to the file.

That the above statements are true to the best of my knowledge and belief.

Craig A. Wright  
Acting Director  
Air Resources Division

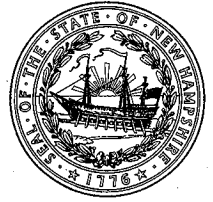


**COMPILATION OF PUBLIC COMMENTS AND NEW  
HAMPSHIRE'S RESPONSE THERETO**

40 CFR Part 51, Appendix V, 2.1(h)



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

**FP 2012-165, Env-A 2700 Hot Mix Asphalt Plant**

**Summary of Comments on Initial Proposal with DES Responses.**

**July 23, 2013**

DES received written comments on the Initial Proposal from the U.S. Environmental Protection Agency (EPA). EPA recommended DES withdraw prior Env-A 2700 submittals with on exception. EPA approved one provision, Env-A 2703.02(a), from the January 28, 2005 submittal on August 22, 2012. DES agrees and will withdraw prior rules as recommended by EPA.

DES Web site: [www.des.nh.gov](http://www.des.nh.gov)

**P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095**

Telephone: (603) 271-1370 • Fax: (603) 271-1381 • TDD Access: Relay NH 1-800-735-2964